



# City of Santa Barbara California

III.

## STAFF HEARING OFFICER STAFF REPORT

**REPORT DATE:** February 7, 2018  
**AGENDA DATE:** February 14, 2018  
**PROJECT ADDRESS:** 107 Cooper Road (MST2017-00790)  
**TO:** Susan Reardon, Senior Planner, Staff Hearing Officer  
**FROM:** Planning Division, (805) 564-5470  
Beatriz Gularte, Senior Planner *BEG*  
Tony Boughman, Assistant Planner *TB*

### I. PROJECT DESCRIPTION

The project would permit the unpermitted conversion of an existing 364 square foot detached garage to a 275 square foot accessory dwelling unit and an 89 square foot laundry/storage area. The existing garage to be converted encroaches into the interior setback. The existing 1,209 square foot single-unit residence on the 8,256 square foot lot in the Non-Appealable Jurisdiction of the Coastal Zone and E-3 zone would remain unaltered. This proposal will abate the violations in ENF2017-00616.

### II. REQUIRED APPLICATIONS

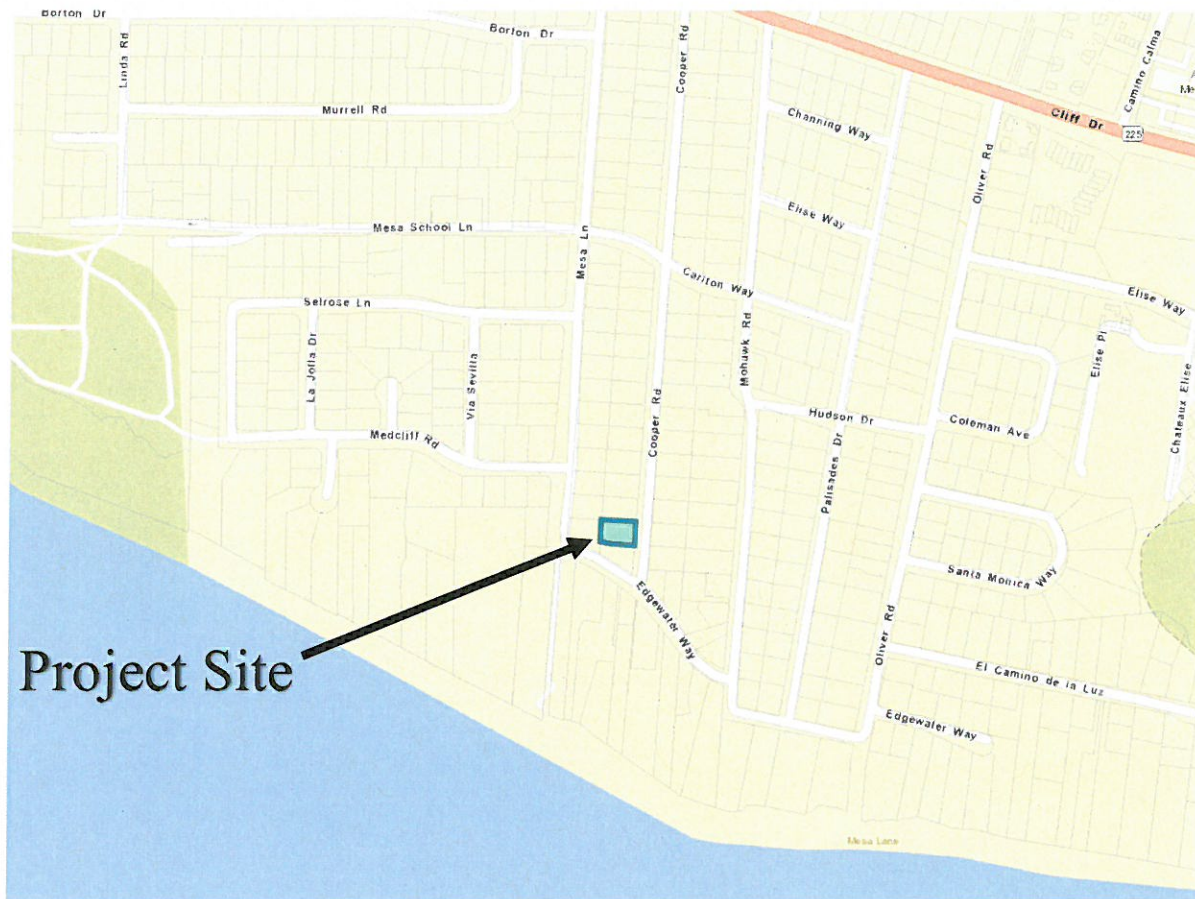
The discretionary applications required for this project are:

- A. An Interior Setback Modification to allow conversion of the existing detached garage to an accessory dwelling unit and a storage/laundry room partially within the interior setback along the northern property line (SBMC §28.92.110); and
- B. A Coastal Development Permit (CDP2017-00013) to allow a detached accessory dwelling unit in the Non-Appealable Jurisdiction of the City's Coastal Zone (SBMC §28.45.009).

**APPLICATION DEEMED COMPLETE:** December 20, 2017  
**DATE ACTION REQUIRED:** March 20, 2018

### III. RECOMMENDATION

If approved as proposed, the project would conform to the City's Zoning and Building Ordinances and policies of the Local Coastal Plan. In addition, the size and massing of the project are consistent with the surrounding neighborhood. Therefore, Staff recommends that the Staff Hearing Officer approve the project, making the findings outlined in Section V.III of this report, and subject to the conditions of approval in Exhibit A.



Vicinity Map 107 Cooper Road

#### IV. **BACKGROUND**

Existing development on the site consists of a 1,209 square foot one-story single-family dwelling and a detached one-car garage which has been illegally converted to a dwelling unit and accessory space (laundry room). The unpermitted conversion is under enforcement and would be abated by obtaining the necessary approvals and permits. The existing 364 square foot garage encroaches 4 feet 10 inches into the required 6 foot interior setback on the north side of the property. The rear 275 square feet of the garage are proposed to be converted to a new accessory dwelling unit. A new kitchenette would be installed along with other minor improvements to comply with current codes for a dwelling unit. A window on the east side is located partially within the setback and is proposed to be replaced, however the new window fits into the existing opening and does not require a setback modification. The front 89 square feet of the garage are proposed to be permitted as accessory space for a laundry room.

New State requirements regarding local government regulation of accessory dwelling units became effective on January 1, 2017. The Legislature amended Government Code section 65852.2 to modify the requirements that local governments may apply to accessory dwelling units with the intent of removing development barriers. Government Code 65852.2 states that

accessory dwelling unit applications “shall be considered ministerially without discretionary review or a hearing.”

However, 65852.2 does not “supersede or in any way alter or lessen the effect or application of the California Coastal Act...except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.” (Gov. Code, § 65852.2, subdivision. (j).)

On April 18, 2017 the California Coastal Commission published a memorandum clarifying how local jurisdictions should apply the new regulations in the Coastal Zone. The memorandum clarifies that although *attached* accessory dwelling unit applications can be exempt from Coastal Development Permits, *detached* units do not qualify for an exemption. However, detached units which involve no potential for any adverse effect on coastal resources and are consistent with the Chapter 3 policies of the Coastal Act, do qualify for a Coastal Development Permit “waiver.” In the City of Santa Barbara, this “waiver” is known as a “Coastal Development Permit without hearing.” Therefore, the Staff Hearing Officer, is the designated decision-maker on the Coastal Development Permit (SBMC 28.44.110.C), but shall not require a public hearing in accordance with Government Code 65852.2.

Because the proposed unit is detached from the main residence, a public hearing is not required for the Coastal Development Permit. The Interior Setback Modification requires a public hearing pursuant to SBMC §28.92.050.

## V. SITE INFORMATION AND PROJECT STATISTICS

### A. SITE INFORMATION

<b>Applicant:</b>	Lonnie Nelson		
<b>Property Owner:</b>	Mikhail Meshkov		
<b>Site Information</b>			
<b>Parcel Number:</b>	041-341-006	<b>Lot Area:</b>	8,256 square feet
<b>General Plan:</b>	Residential 12 units/acre	<b>Zoning:</b>	E-3/SD-3
<b>Existing Use:</b>	Single Unit Residential	<b>Topography:</b>	2% slope
<b>Adjacent Land Uses</b>			
<b>North</b> – Single Unit Residential		<b>East</b> – Single Unit Residential	
<b>South</b> – Single Unit Residential		<b>West</b> – Single Unit Residential	

### B. PROJECT STATISTICS

	<b>Existing</b>	<b>Proposed</b>
<b>Primary Dwelling</b>	1,209 square feet	1,209 square feet
<b>Accessory Dwelling</b>	0	275 square feet
<b>Garage</b>	364 square feet	0
<b>Accessory Space</b>	0	89 square feet

## VI. POLICY AND ZONING CONSISTENCY ANALYSIS

### A. ZONING ORDINANCE CONSISTENCY

Standard	Requirement/ Allowance		Existing	Proposed
<b>Setbacks</b>				
-Front	20 feet		28 feet	No change
-Interior (north)	6 feet		14 inches	14 inches*
<b>Height (accessory)</b>	30 feet		10 feet 10 inches	No Change
<b>Parking</b>	Primary Unit = 0 spaces ADU = 0 spaces	Primary Unit = 1 space in garage ADU = N/A		Primary Unit = 1 space in driveway ADU = 0 spaces
<b>Open Yard</b>	1,250 square feet		> 1,250 square feet	No Change

\*Modification requested for change of use

With the approval of the Interior Setback Modification described below, the project would meet the requirements of the Zoning Ordinance.

#### 1. INTERIOR SETBACK MODIFICATION

The proposed change of use to convert the rear 275 square feet of the existing garage to an accessory dwelling unit within the setback is allowed by Government Code 65852.2. The unpermitted conversion of the front 89 square feet from garage to accessory space within the required six foot interior setback requires an interior setback modification.

Staff is supportive of this request because the modification is necessary to permit an appropriate improvement. The space remaining at the front of the converted garage is only 6.5 feet deep and is suitable for accessory space. The northern neighbor's house is approximately 10 feet from the property line, and the distance between the new accessory space and the neighbor's house would be approximately 11 feet, similar to the distance if the two adjacent properties were developed to the required 6 foot interior setbacks for the E-3 Zone. There is an existing fence and vegetation in the area between these buildings which provides buffering and privacy. The project is not expected to significantly impact the adjacent neighbor.

#### 2. ACCESSORY DWELLING UNIT STANDARDS

Accessory dwelling units are permitted in single family and multi-family residential zones provided they meet the requirements in Government Code 65852.2 and comply with applicable local zoning requirements. The proposed detached accessory dwelling unit would be created by converting an existing detached garage on the property, which is less 1,200 square feet in size. Additionally, the unit complies with building height, open yard, solar access, and setback requirements, with the exception of the interior setback as discussed above. Parking for the accessory dwelling unit is not required as it is converting existing floor area (including garages), and is located within one quarter mile of public transit. Replacement parking for the primary unit is not required if the existing garage is converted to an ADU. However, the project is proposing to replace the garage parking space with one uncovered parking space in the existing driveway outside the front setback.

## LOCAL COASTAL PLAN CONSISTENCY

### COASTAL DEVELOPMENT PERMIT

Per the California Coastal Commission memorandum dated April 18, 2017, the detached ADU requires a Coastal Development Permit and thus must be found consistent with the City's Local Coastal Plan (LCP), which implements the California Coastal Act.

### LOCAL COASTAL PLAN CONSISTENCY

The project is in Component Two of the LCP, which is located between Arroyo Burro Creek and the westerly boundary of Santa Barbara City College. The LCP states that the primary land use of this area is single-family residential and has very limited additional development potential. The major coastal issues identified for Component Two include hazards of seacliff retreat and flooding, maintaining and providing public access, both vertically and laterally along the bluffs, preventing overuse of public facilities; protection of recreational access; protection of archaeological resources and the maintenance of existing coastal views and open space.

The project site is not located on the coastal bluff and was not found to be archaeologically sensitive. Public views will not be affected as none exist across the site, and there will be no increase to the size or height of the existing structure.

#### Applicable Policies

- a. LCP Policy 5.3: *New development in and/or adjacent to existing residential neighborhoods must be compatible in terms of scale, size, and design with the prevailing character of the established neighborhood. New development which would result in an overburdening of public circulation and /or on-street parking resources of existing residential neighborhoods shall not be permitted.*

The project would be converting the existing garage to an accessory dwelling unit without increasing its size or height and would therefore not alter the existing character of the neighborhood. The proposed project is consistent with this Policy because no new square footage or size is being added to the building, and parking for the primary unit will be replaced with an uncovered parking space in the existing driveway. Pursuant to State Government Code section 65852.2 the City shall not require parking for this accessory dwelling unit located within one quarter mile of public transit, with no new floor area proposed on the lot.

- b. LCP Policy 5.6: *To the maximum extent feasible, taking into account economic, environmental, social and technological factors, provisions for low-and moderate-income housing in all new residential developments shall be provided.*

This project is consistent with this policy because the new accessory dwelling unit is modest in size and would therefore be more affordable by design. This project is consistent with this policy because the new accessory dwelling unit is modest in size and would therefore be more affordable by design.

- c. LCP Policy 9.1: *Existing views to and from, and along the ocean and scenic coastal areas shall be protected, preserved, and enhanced.*

The creation of this dwelling unit would be within the existing garage building and would not inhibit existing views to, from or along the ocean or any scenic coastal areas. Therefore, this project is consistent with this Policy of the LCP.

## **VII. ENVIRONMENTAL REVIEW**

The Master Environmental Assessment identified the site as not within any areas of concern or sensitivity, other than having highly expansive soils. Because the project is permitting the as-built conversion of an existing detached garage to an accessory dwelling unit with only interior construction and no ground disturbance, a soils report will not be required by the Building and Safety Division to obtain a building permit. The project is exempt from further environmental review pursuant to CEQA Categorical Exemption 15303, Construction or Conversion of Small Structures, and 15305, Minor Alterations in Land Use Limitations.

## **VIII. FINDINGS**

The Staff Hearing Officer finds the following:

### **A. INTERIOR SETBACK MODIFICATION**

The interior setback modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed conversion of the rear of the garage will allow for a new accessory dwelling unit within an existing nonconforming structure. Approval of a setback modification for the remaining front portion of the garage structure to be converted to useful accessory space is an appropriate improvement on the lot as discussed in Section VI.A.1 of the staff report.

### **B. COASTAL DEVELOPMENT PERMIT (SBMC §28.44.150)**

1. The project is consistent with policies of the California Coastal Act because it does not result in any adverse effects related to coastal resources, including views and public access, as described in Section VI.B of the Staff Report. The proposed development is located within an existing developed area that is able to accommodate said development.
2. The project is consistent with all applicable policies of the City's Local Coastal Plan, all implementing guidelines, and all applicable provisions of the Code because the new accessory dwelling unit is compatible with the existing neighborhood, will not impact views from public view corridors, will not impact public access, and is not located on a coastal bluff or in an archaeological sensitivity zone, as discussed in Section VI.B of the staff report.

#### **Exhibits:**

- A. Conditions of Approval
- B. Site Plan
- C. Applicant's letter, dated

## STAFF HEARING OFFICER CONDITIONS OF APPROVAL

107 COOPER ROAD  
COASTAL DEVELOPMENT PERMIT, ZONING MODIFICATION  
MST2017-00790  
FEBRUARY 14, 2018

I. In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owners and occupants of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
3. Submit an application for and obtain a Building Permit (BLD) to demolish any structures / improvements and/or perform rough grading. Comply with condition E "Construction Implementation Requirements."
4. Record any required documents (see Recorded Conditions Agreement section).
5. Permits.
  - a. Submit an application for and obtain a Building Permit (BLD) for construction of approved development and complete said development.
  - b. Submit an application for and obtain a Public Works Permit (PBW) for all required public improvements and complete said improvements.

Details on implementation of these steps are provided throughout the conditions of approval.

B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on February 14, 2018 is limited to the conversion of the garage to an accessory dwelling unit and accessory floor area as shown on the plans signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Accessory Dwelling Unit.** The accessory dwelling unit shall not be sold separately from the primary residential unit, and shall be rented for more than 30 consecutive days.
3. **Owner Occupancy Required.** The owner of the lot shall occupy either the primary residential unit or the accessory dwelling unit as his or her primary residence.
4. **Uninterrupted Water Flow.** The Owner shall allow for the continuation of any historic flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

5. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats, or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
- C. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Some of these conditions may be waived for demolition or rough grading permits, at the discretion of the department listed. Please note that these conditions are in addition to the standard submittal requirements for each department.
1. **Public Works Department.**
    - a. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff prepares said agreement for the Owner's signature.
    - b. **Encroachment Permits.** Any encroachment or other permits from the City or other jurisdictions (State, Flood Control, County, etc.) for the construction of improvements (including any required appurtenances) within their rights of way or easements shall be obtained by the Owner.
  2. **Community Development Department.**
    - a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
    - b. **Conditions on Plans/Signatures.** The final Resolution shall be provided on a full size drawing sheet as part of the drawing sets. A statement shall also be placed on the sheet as follows:

The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
Contractor	Date
Contractor	License No.
Architect	Date
Architect	License No.
Engineer	Date
Engineer	License No.

D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction, including demolition and grading.

1. **Construction Contact Sign.** Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) name and telephone number(s) to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not exceed six square feet in a single family zone.
2. **Construction Storage/Staging.** Construction vehicle/ equipment/ materials storage and staging shall be done on-site. No parking or storage shall be permitted within the public right-of-way, unless specifically permitted by the Public Works Director with a Public Works permit.
3. **Unanticipated Archaeological Resources Contractor Notification.** Standard discovery measures shall be implemented per the City master Environmental Assessment throughout grading and construction: Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the Owner shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current

City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

A final report on the results of the archaeological monitoring shall be submitted by the City-approved archaeologist to the Environmental Analyst within 180 days of completion of the monitoring and prior to any certificate of occupancy for the project.

E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

1. **Repair Damaged Public Improvements.** Repair any public improvements (curbs, gutters, sidewalks, roadways, etc.) or property damaged by construction subject to the review and approval of the Public Works Department per SBMC §22.60. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

F. **General Conditions.**

1. **Compliance with Requirements.** All requirements of the city of Santa Barbara and any other applicable requirements of any law or agency of the State and/or any government entity or District shall be met. This includes, but is not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.), the 1979 Air Quality Attainment Plan, and the California Code of Regulations.
2. **Approval Limitations.**
  - a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
  - b. All buildings, roadways, parking areas and other features shall be located substantially as shown on the plans approved by the Staff Hearing Officer.
  - c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

**NOTICE OF MODIFICATION APPROVAL TIME LIMITS:**

The Staff Hearing Officer action approving the Modification shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

**NOTICE OF COASTAL DEVELOPMENT PERMIT TIME LIMITS:**

The Staff Hearing Officer action approving the Coastal Development Permit shall expire two (2) years from the date of final action upon the application, per Santa Barbara Municipal Code §28.44.230, unless:

1. Otherwise explicitly modified by conditions of approval for the coastal development permit.
2. A Building permit for the work authorized by the coastal development permit is issued prior to the expiration date of the approval.
3. The Community Development Director grants an extension of the coastal development permit approval. The Community Development Director may grant up to three (3) one-year extensions of the coastal development permit approval. Each extension may be granted upon the Director finding that: (i) the development continues to conform to the Local Coastal Program, (ii) the applicant has demonstrated due diligence in completing the development, and (iii) there are no changed circumstances that affect the consistency of the development with the General Plan or any other applicable ordinances, resolutions, or other laws.

**NOTICE OF TIME LIMITS FOR PROJECTS WITH MULTIPLE APPROVALS (S.B.M.C. § 28.87.370):**

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the land use discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.



## **City of Santa Barbara California**

### **\*\*\* SEPARATELY DISTRIBUTED SITE PLAN \*\*\***

Exhibit B: This site plan for this Staff Report has been distributed separately. A copy of the Staff Report, site plan, and exhibits/attachments are available for viewing at the Planning and Zoning Counter at 630 Garden Street, Santa Barbara, CA between the hours of 8:30 a.m. and 4:30 p.m., Monday through Thursday, and every other Friday.

Please check the City Calendar at [www.SantaBarbaraCA.gov](http://www.SantaBarbaraCA.gov) to verify closure dates.

**EXHIBIT B.**

Lonnie Nelson

210 Barranca Ave  
Santa Barbara, CA. 93109  
805-883-8795  
ddr32@msn.com

November 27, 2017

Dear Staff Hearing Officer,

I am seeking a Coastal Development Permit and need Staff Hearing approval. The property I am proposing to work on is at 107 Cooper Rd, Santa Barbara, Ca. 93109. The property is currently a 1,304 square foot single family home with a 401 square foot detached garage. The property is .19 acres (8,256 SF). There is currently one covered space and one in the driveway. The property is landscaped with fences and shrubs. The surrounding houses are all residential homes zoned the same. Water is provided by the city of Santa Barbara. The main house has 2 bedrooms and one bathroom. On June 7, 2017, my client Michael Meshkov received a notice of violation Case Number :ENF2017-00616. This was sent out by Lauren Anderson, Building Inspector after her inspection on May 24, 2017. The Violation Stated: "the garage cannot be used for it's permitted use of garage because of the full wall rebuilt behind the garage door. Zoning information report ZIR98-00674 found the garage in use as habitable space. Enforcement case ENF98-00470 required the removal of interior partition wall and the plumbing for the shower. Building permit BLD99-00523 was issued to abate the violation but was expired due to lack of inspections. Building permit BLD2000-02125 was issued to replace closet BLD99-00523 and received final inspection on 9/3/2000. The partition wall and a interior partition wall." Michael Meshkov's mother suddenly passed away in her home in May of this year and the house was left to Michael. He was Called to Russia to sort out his mothers funeral and passing and has been there since August. He has hired me to apply for a permit to convert the garage into an ADU unit. I was brought into this project in August. We have engaged an architect and have been working on plans since September. Plans and the coastal development permit were submitted on 11-21-2017. Thank you for your time.

Regards,

Lonnie Nelson

EXHIBIT C

RECEIVED  
NOV 28 2017  
CITY OF SANTA BARBARA  
PLANNING DIVISION